

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

IN RE: RANDY HAROLD BAKER

#15-33764-SHB

Chapter 13

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at US Bankruptcy Court, 800 Market St., Ste. 330, Knoxville, TN 37902 an objection within thirty (30) days from the date this paper was filed and serve a copy on the Chapter 13 Trustee, PO Box 228, Knoxville, TN 37901 and the debtor(s)' attorney, Richard M. Mayer and/or John P. Newton, 1111 Northshore Dr. S-570, Knoxville, TN 37919-. If you file and serve an objection within the time permitted, the court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the court will consider that you do not oppose the granting of the relief requested in this paper and may grant the relief requested without further notice or hearing.

OBJECTION BY CHAPTER 13 TRUSTEE TO PROOF OF CLAIM
FILED BY NEWPORT FEDERAL BANK

NEWPORT FEDERAL BANK has filed a secured claim on 01/22/2016 in the amount of \$159,636.90 for properties located at 3132 and 3134 School St. White Pine, TN 37890 ; however, per the terms of the confirmed plan, this property is being surrendered and this creditor is entitled to receive payments under the plan only on an unsecured deficiency claim. The plan further provides that any amended deficiency claim in order to relate back to the original claim must be filed within one hundred twenty (120) days from the claim bar date unless the creditor seeks and is granted additional time within which to file an amended deficiency claim. The Chapter 13 Trustee, therefore, moves the Court for an Order directing no payments be made on this claim by the Trustee unless an amended deficiency claim is timely filed.

The Trustee does not seek to avoid the lien status, if any, of this creditor.

SUBMISSION AND CERTIFICATE OF SERVICE BY CHAPTER 13 TRUSTEE

Based on information and belief, the Chapter 13 Trustee hereby certifies the correctness of the facts contained in this Objection, Notice and Proposed Order and hereby certifies that a true and exact copy of the same has been serviced by electronic mail and/or by first class United States mail postage prepaid on the following individuals as addressed below this 10th day of March 2016.

/s/ Gwendolyn M. Kerney (by ml w/perm)
GWENDOLYN M. KERNEY, #07280
Chapter 13 Trustee
PO Box 228
Knoxville, TN 37901
(865) 524-4995

RANDY HAROLD BAKER/ , DEBTOR(S)
353 POPLAR GROVE ROAD
HARROGATE, TN 37752

-

RICHARD M. MAYER AND/OR JOHN P. NEWTON
LAW OFFICES OF MAYER & NEWTON
1111 NORTSHORE DR. S-570
KNOXVILLE, TN 37919-

UNITED STATES TRUSTEE
800 MARKET STREET SUITE 114
KNOXVILLE, TN 37902

NEWPORT FEDERAL BANK
ATTN: OFFICER OF THE BANK
170 W. BROADWAY
NEWPORT, TN 37821-
CERTIFIED MAIL: 7015 1520 0002 7412 5642

THOMAS H. DICKENSON, ATTORNEY
HODGES, DOUGHTY & CARSON, PLLC
PO BOX 869
KNOXVILLE, TN 37901-0869

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

IN RE: RANDY BAKER

#15-33764 - SHB
Chapter 13

MODIFICATION OF PLAN (dated: 2-16-2016)

The debtor(s) hereby modify the Chapter 13 plan provisions filed in the case as follows:

<u>Creditor</u>	<u>Value</u>	<u>Per Month</u>	<u>Interest Rate</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

* Other Changes: Paragraphs 9 and 17 as to Newport Federal Bank is hereby amended striking any and all language surrendering properties in full satisfaction of indebtedness and vesting legal title in the creditors. Debtor will surrender the property and the creditors' shall be allowed to file and be paid an amended unsecured deficiency claim which shall relate back to a timely filed secured claim. In order for the amended deficiency claim to relate back to the original claim, the amended claim must be filed within 120 days from the claims bar date unless the creditor during this time seeks and is granted additional time within which to file any amended deficiency claim.

Notice to creditors is not required since modification does not adversely affect the rights of creditors or creditors have consented to modification. Any required notice to debtor(s) is the responsibility of debtor(s)' counsel.

Attorney for Debtor(s)

Gwendolyn Kenney
Chapter 13 Trustee (w/paper)

Creditor: *Newport Fed. Bank*
By: *Thomas H. Dickerson*
Title: *Atty.*

Creditor: _____
By: _____
Title: _____

Creditor: _____
By: _____
Title: _____

Creditor: _____
By: _____
Title: _____

Fill in this information to identify your case:

Debtor Randy Harold Baker

United States Bankruptcy Court for the EASTERN DISTRICT OF TENNESSEE

Case number 3:15-bk-33764-SHB
(if known)

Official Form 410
Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	Newport Federal Bank Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom?	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? Newport Federal Bank 170 W. Broadway Newport, TN 37821-2325 Name, Number, Street, City, State & Zip Code Contact phone (423) 623-6088 Contact email bschimming@newportfederalbank.com Uniform claim identifier for electronic payments in chapter 13 (if you use one)	Where should payments to the creditor be sent? (if different) Name, Number, Street, City, State & Zip Code Contact phone Contact email
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) Filed on	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing?	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>7766</u>
7. How much is the claim?	\$ <u>159,636.90</u> Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Money loaned</u>
9. Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input checked="" type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: <u>DOT -Real Property at 3132 and 3134 School Street, White Pine, TN</u> Basis for perfection: <u>Deed of Trust</u> Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ <u>unknown</u> Amount of claim that is secured: \$ <u>159,636.90</u> Amount of claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ <u>123.21</u> Annual Interest Rate (when case was filed) <u>5</u> % <input type="checkbox"/> Fixed <input checked="" type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition: \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____

☐ Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____

☐ Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

Part 3:

Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both.

18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date

MM/DD/YYYY

1/20/16
Thomas H. Dickenson

Signature

Print the name of the person who is completing and signing this claim:

Name Thomas H. Dickenson

Title Attorney

Company Hodges, Doughty & Carson, PLLC

Identify the corporate servicer as the company if the authorized agent is a servicer.

P. O. Box 869

Address Knoxville, TN 37901-0869

Number, Street, City, State and Zip Code

Contact phone (865) 292-2307

Email tdickenson@hdclaw.com